

JOURNAL OF THE HOUSE.

Wednesday, April 14, 2004.

Met according to adjournment, at eleven o'clock A.M., with Mr. Dempsey of Haverhill in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, during these times of possible terrorist activities at home and with an increase of terrorist violence abroad, we look to You for guidelines and direction as we try to cope with new political realities and our own legislative responsibilities. In addressing and resolving today's complex issues and policies, inspire us to select options which are based on hard not heresy information, on sound and not emotional reasoning and on factual not faulty data. Enlighten our minds as we explain to the people the rationale for our many choices and decisions. We believe that Your guidelines for achieving success in daily living also offers us peace of mind, personal happiness and hope for the future.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Dempsey), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Fagan of Taunton) congratulating the Portuguese American Civic Club on the occasion of its seventy-fifth anniversary;

Portuguese
American
Civic Club.

Resolutions (filed by Mr. Greene of Billerica) congratulating the town of Billerica on its selection by Sports Illustrated and the National Recreation and Parks Association as the "Number One Sportstown in Massachusetts"; and

Billerica.

Resolutions (filed by Ms. Polito of Shrewsbury) honoring Linda Frissora-Gosselin;

Linda
Frissora-
Gosselin.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mrs. Walrath of Stow, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Reports of Committees.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Insurance to make an investigation and study of certain House documents concerning insurance

Insurance
regulations,
study.

regulations (House, No. 4616), reported, in part, asking to be discharged from further consideration

Insurance, runners.
Of the petition (accompanied by bill, House, No. 1306) of Gale D. Candaras relative to prohibiting the use of runners for insurance claims;

Auto accidents.
Of the petition (accompanied by bill, House, No. 1689) of Ronald Mariano that medical licensing boards be required to make an annual review of certain motor vehicle insurance information; and

Professional liability insurance.
Of the petition (accompanied by bill, House, No. 1691) of Ronald Mariano relative to liability insurance for certain health care professionals;

And recommending that the same severally be recommitted to the committee on Insurance.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Veterans Agents.
By Mr. Cabral of New Bedford, for the committee on Human Services and Elderly Affairs, on House, Nos. 2622 and 2819, a Bill relative to certain veterans' agents (House, No. 2622).

Children and animals.
By Mr. Toomey of Cambridge, for the committee on Public Safety, on a petition, a Bill relative to the protection of children and animals (House, No. 2657).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Elementary education.
By Ms. St. Fleur of Boston, for the committee on Education, Arts and Humanities, on House, No. 2031, a Bill establishing a special commission to investigate, study and report on fiscal impacts of the Elementary and Secondary Education Act, "No child left behind", on public education in the Commonwealth (House, No. 4662).

Middle education.
By the same member, for the same committee, on House, No. 3956, a Bill establishing a special commission to study the state of middle education in the Commonwealth (House, No. 4663).

Severally read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Education for all.
By Ms. St. Fleur of Boston, for the committee on Education, Arts and Humanities, on Senate, No. 239 and House, Nos. 688, 1254, 1838, 2225, 2403, 2751 and 3132, a Bill establishing early education for all (House, No. 4664).

Parent participation, education.
By the same member, for the same committee, on Senate, Nos. 251 and 288 and House, No. 1843, a Bill establishing a parent participation plan in public schools (House, No. 4665).

Quality learning.
By the same member, for the same committee, on Senate, No. 278 and House, Nos. 119, 123, 327, 1260, 1833, 1839, 1840, 1846, 2395, 2758 and 2935, a Bill relative to ensuring that all students have access to educational opportunities and quality learning time (House, No. 4666).

Turnpike Authority, fuel.
By Mr. Binienda of Worcester, for the committee on Energy, on the residue of House, No. 4614, a Bill requiring the Massachusetts Turnpike Authority to provide alternative fuel at their facilities (House, No. 4667).

By Mr. Koutoujian of Waltham, for the committee on Health Care, on House, No. 4357, a Bill relative to the licensure of massage therapists in Massachusetts (House, No. 4668).

Massage therapists.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Orders of the Day.

The engrossed Bill providing for a charter for the town of Dudley (see House, No. 4428), which had been returned to the House by the Acting Governor with recommendation of amendment (for message, see House, No. 4652), was considered in the following form (as approved by the committee on Bills in the Third Reading):

Dudley, charter.

In Part III (as printed), by striking out, in lines 92 and 222, the word "Regional" and inserting in place thereof, in each instance, the word "Dudley", by striking out, in lines 93 and 94 the words "Outside of the Town's immediate control" and inserting in place thereof the words "As provided by law or agreement", by striking out, in line 108 the words "Full time employees" and inserting in place thereof the word "Employees", by striking out, in lines 228 and 229, the words "by the Secretary of the Communities and Development of the Commonwealth" and inserting in place thereof the words "as provided by state law"; in Part IV, by striking out, in lines 326 and 327, 340 and 341, 365 and 366, and in line 372, the words "volunteer committee members" and inserting in place thereof, in each instance, the words "multiple-member bodies", by striking out, in line 342, the words "Assessor Advisory Committee (Board of Assessors)" and inserting in place thereof the words "Board of Assessors", by striking out, in line 347, the words "Central MA Planning Committee" and inserting in place thereof the words "Central Massachusetts Regional Planning Commission", by striking out, in line 349, the words "Conservation Advisory Committee (Conservation Commission)" and inserting in place thereof the words "Conservation Commission", by striking out, in line 415, the words "Assessor Advisory Committee" and inserting in place thereof the words "Board of Assessors"; in Part V, by striking out the sentence contained in lines 555 to 558, inclusive, and inserting in place thereof the following two sentences "Make recommendations to the Board of Selectmen for new town departments, boards, and committees, which may include reassignments of powers, duties, and responsibilities. The Board of Selectmen may recommend such changes to town meeting for implementation by adoption or revision of the town's bylaws or of this charter, as may be applicable."; in Part VI, by inserting after the word "and", in line 644, the words "those providing", by striking out, in lines 665, and 666, the words "The following officials/town employees presently appointed by the Board of Selectmen will be hired by the Town Manager:" and inserting in place thereof the words "Upon adoption of this charter, the following officials and town employees shall be appointed by the Town Manager:", by striking out, in lines 675 and 676, the words "The following officials/employees presently appointed by the boards and commissions will be hired by the Town Manager:" and inserting in place thereof the words "Upon adoption of this

Dudley, charter.
charter, the following officials and town employees shall be appointed by the Town Manager.”, by striking out lines 683 to 686, inclusive, and inserting in place thereof the words “Upon adoption of this charter, the Town Manager shall appoint the Collector and Treasurer.”, by striking out, in lines 702 and 703, the words “, Highway Commission (Board of Selectmen)” and inserting in place thereof the words “by the Board of Selectmen acting as the Highway Commission”, by striking out, in line 724, the words “are hereby transferred to the DPW” and inserting in place thereof the words “Shall be transferred to DPW as soon as the DPW is established pursuant to section 9-5 (d) of this chapter”, by striking out, in line 814, the words “Personnel Department” and inserting in place thereof the words “Personnel Advisory Committee”; in Part IX, by inserting after the word “established”, in line 1072, the words “except as otherwise provided in this charter”.

The amendments were adopted. Sent to the Senate for concurrence.

Senate bills
Third reading bills.
Relative to a certain bridge in the town of Amesbury (Senate, No. 1853) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the town of Palmer to establish a special revenue fund (Senate, No. 1947);

Establishing a preservation fund in the town of Hubbardston (Senate, No. 2074); and

Establishing a sick leave bank for Marguerite McWhinnie, an employee of the Trial Court of the Commonwealth (Senate, No. 2198, amended) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills
Relative to the Jacob Sears Memorial Library (House, No. 3746); and

Relative to the membership of the conservation commission of the town of Bourne (House, No. 4057);

Relative to tips received by certain employees (House, No. 4431) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the state elections for certain offices in the year 2004 (House, No. 4661);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Recess.
At fourteen minutes after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mr. Dempsey of Haverhill being in the Chair), the House recessed subject to the call of the Chair; and at sixteen minutes before four o'clock P.M. the House was called to order with Mr. DiMasi of Boston in the Chair.

Papers from the Senate.

Medford, state-owned land.
The House Bill relative to the disposition of certain state-owned land in the city of Medford (House, No. 3076) came from the Senate passed to be engrossed, in concurrence, with certain amendments in section 1, in line 9, striking out the word “commission” and inserting in place thereof the word “commissioner”, in line 18, by inserting after the year “2002” the words “and any revisions as required by the commissioner to determine the exact boundaries in consultation with the department of conservation and recreation and the Massachusetts Bay Transportation Authority”; in section 2, in line 7, by inserting after the figures “368” the words “, including any revisions required by the commissioner to determine the exact boundaries in consultation with the department of conservation and recreation and the Massachusetts Bay Transportation Authority”; and by adding at the end thereof (as changed by the Senate committee on Bills in the Third Reading) the following section:

“SECTION 4. If the property described in section 1 is not used for the purposes described in section 1, or if the use for these purposes is abandoned at any time or if any other use is undertaken on the property, the property shall revert to the commonwealth upon notice by the commissioner of capital asset management and maintenance to the Massachusetts Bay Transportation Authority.”.

Under suspension of Rule 35, on motion of Mr. Costello of Amesbury, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Cigarette escrow.
The House Bill providing for cigarette escrow compliance (House, No. 4327) came from the Senate passed to be engrossed, in concurrence, with certain amendments in section 3, in line 25, inserting after the word “Agreement” the words “and any amendments thereto”, in line 28, inserting after the word “cigarette” the words “and any person, other than the consumer, required to pay the excise on cigarettes”, in line 41, inserting after the following: “94E” the following: “including any installment payments which may be required under subsection (e) of section 4”, in lines 199 and 200, striking out the words “being held on behalf of the commonwealth” and inserting in place thereof the words “, exclusive of interest” and in line 233, inserting after the word “each” the words “sale or”.

Under suspension of Rule 35, on motion of Mr. Costello of Amesbury, the amendments were considered forthwith.

The committee on Bills in the Third Reading reported recommending that the House concur with the Senate in its amendments with a further amendment, in section 3, in line 28, by striking out the words “and any person, other than the consumer, required to pay the excise on cigarettes” (inserted by amendment by the Senate); and the report was accepted.

The further amendment was adopted. The House then concurred with the Senate in its amendments, as amended. Sent to the Senate for concurrence in the further amendment.

Chelsea,
school
committee.

The House Bill relative to the school committee of the city of Chelsea (House, No. 4410) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 3, in line 7, inserting after the year “2004” the following: “, and the preceding preliminary election shall be held on the date of and in conjunction with the regular state primaries in 2004”.

Under suspension of Rule 35, on motion of Mr. Costello of Amesbury, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Vehicular
homicide,
negligence.

A petition of Linda J. Melconian, Sheila A. Pecor and Richard T. Moore for legislation to authorize negligence per se for vehicular homicide while driving with a suspended or revoked license, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Criminal Justice.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2324) was referred, in concurrence, to the committee on Criminal Justice.

Reports of Committees.

General
Appropriation
Bill.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (House No. 1A), reported, in part, a Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600) [Direct Appropriations: \$21,295,947,797.00; Retained Revenue: \$537,891,860.00; Lottery Distribution: \$661,378,162.00; and Total Appropriation: \$22,495,217,819.00]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Rogers, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, further consideration thereof was postponed, on further motion of the same member, until Monday, April 26 and specially assigned to the hour of ten o'clock A.M.

Engrossed Bill.

Bill
enacted.

The engrossed Bill authorizing the Fitchburg Housing Authority to convey certain land (see House, No. 4242, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Lakeville,

The engrossed Bill authorizing a change in land use in the town of Lakeville (see House, No. 4112, amended), which had been

returned to the House by the Acting Governor with recommendation of amendment (for message, see House, No. 4643), was considered in the following form (as approved by the committee on Bills in the Third Reading):

In Section 1, by adding the following sentence: “Any consideration received by the town of Lakeville as a result of the facility shall be used for the mitigation of any environmental impacts of the facility, or for such other purposes consistent with Article XCVII of the Amendments to the Constitution of the Commonwealth and section 63 of chapter 44 of the General Laws.”.

The amendment was rejected. Sent to the Senate for its action.

House bills

- Relative to the regulations of motorized scooters (House, No. 1544);
 - Relative to damages for harmed assistance animals (House, No. 2829);
 - Relative to retirement rights of school committee appointees (House, No. 3960);
 - Placing certain school department positions in the city of Gardner under the civil service law (House, No. 4204);
 - Relative to the administrative judges of the Division of Industrial Accidents (House, No. 4465);
 - Relative to the establishment of the position of director of finance in the city of Revere (House, No. 4508); and
 - Relative to the Department of Inspectional Services in the city of Lynn (House, No. 4509);
- Severally were read a second time; and they were ordered to a third reading.

Second
reading
bills.

Order.

On motion of Mr. Finneran of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next
sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at five minutes after four o'clock P.M., on motion of Mr. Donato of Medford (Mr. DiMasi of Boston being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.